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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 ISMAEL GUILLERMO HERNANDEZ,

Case No. 2:15-cv-02132-APG-NJK

10 Plaintiff,

ORDER

11 v.

12 CLARK COUNTY DETENTION CENTER
ADMINISTRATOR, et al.,

13 Defendants.

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15 Before the court is a *pro se* petition for writ of habeas corpus pursuant to 28
16 U.S.C. § 2254, submitted by Ismael Guillermo Hernandez, who is incarcerated at the
17 Clark County Detention Center (Dkt. #1-1). His application to proceed *in forma pauperis*
(Dkt. #1) shall be granted.

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19 Petitioner indicates on the face of his petition that he has not presented his
20 claims to the Nevada Supreme Court. A federal court will not grant a state prisoner's
21 petition for habeas relief until the prisoner has exhausted his available state remedies
22 for all claims raised. *Rose v. Lundy*, 455 U.S. 509 (1982); 28 U.S.C. § 2254(b). A
23 petitioner must give the state courts a fair opportunity to act on each of his claims before
24 he presents those claims in a federal habeas petition. *O'Sullivan v. Boerckel*, 526 U.S.
25 838, 844 (1999); *see also Duncan v. Henry*, 513 U.S. 364, 365 (1995); *Laing v.*
26 *Ashcroft*, 370 F.3d 994, 997 (9th Cir. 2004). A claim remains unexhausted until the
27 petitioner has given the highest available state court the opportunity to consider the
28 claim through direct appeal or state collateral review proceedings. *See Casey v. Moore*,

1 386 F.3d 896, 916 (9th Cir. 2004); *Garrison v. McCarthy*, 653 F.2d 374, 376 (9th Cir.
2 1981).

3 Accordingly, petitioner shall have **thirty (30) days** from the date of entry of this
4 order to show cause and file such proof he may have to demonstrate that he has
5 exhausted his state remedies. If petitioner has failed to exhaust state remedies, his
6 federal petition will be dismissed without prejudice. See Rule 4, Rules Governing
7 Habeas Corpus.

8 **IT IS THEREFORE ORDERED** that petitioner's application to proceed *in forma*
9 *pauperis* (Dkt. #1) is **GRANTED**.

10 **IT IS FURTHER ORDERED** that the Clerk **shall file and ELECTRONICALLY**
11 **SERVE** the petition (Dkt. #1-1) on the respondents. No action by respondents is
12 required until further order by this court.

13 **IT IS FURTHER ORDERED** that petitioner shall have **thirty (30) days** from the
14 date of entry of this order to show cause and file such proof he may have to
15 demonstrate that he has exhausted his state remedies.

16 **IT IS FURTHER ORDERED** that if petitioner is unable to demonstrate that he
17 has exhausted his state remedies, the court will enter an order dismissing the petition.

18 Dated: January 12, 2016..

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22 ANDREW P. GORDON
23 UNITED STATES DISTRICT JUDGE
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